
Appeal Decision

Site visit made on 24 July 2019

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 August 2019

Appeal Ref: APP/Y3615/W/19/3225673

Land adjoining Streamside, Harpers Road, Ash GU12 6DB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Bourne Homes against the decision of Guildford Borough Council.
 - The application Ref 17/P/02616, dated 20 December 2017, was refused by notice dated 5 November 2018.
 - The development proposed is the erection of 24 new houses with associated parking and creation of new vehicular access.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Bourne Homes against Guildford Borough Council. This application is the subject of a separate decision.

Procedural and Preliminary Matters

3. Following the determination of the planning application and the consideration of this appeal, the Council have adopted the Guildford Borough Local Plan: Strategy and Sites 2019 (LPSS). Whilst the LPSS is now part of the development plan for the purposes of decision making, some policies of the 2003 Local Plan have been saved. The relevant policies of both documents are set out in the Council's statement on which the appellant has had opportunity to comment. I have referred to the development plan as it is at the time I make this decision.
4. One of the reasons the Council refused planning permission was concerned with the loss of deciduous woodland that would, as a result, cause unacceptable damage to wildlife habitat and protected species. Following the submission of additional information in this respect the Council's evidence suggests they no longer wish to defend the reason for refusal on the grounds that any direct effect can be suitably mitigated though the use of conditions. I have no compelling reason to disagree. I have proceeded on this basis.

Main Issues

5. With the above in mind, there are three main issues in the determination of this appeal. These are the effect of the proposed development on a) the character and appearance of the area; b) the Thames Basin Heaths Special

Protection Area (TBHSPA); and c) whether the proposed development would make adequate contributions towards infrastructure having regard to its impacts and the requirements of the development plan.

Reasons

Character and Appearance

6. The appeal site is a roughly triangular parcel of land that tapers at its northern end. It is split roughly in half, bisected by a narrow stream. The northern end comprises a relatively dense wooded area with a clearing and the southern half land and gardens associated with the detached bungalow known as Streamside. The entire site slopes downhill north to south and abuts the back edge of Harpers Road to the east which is a narrow and unlit rural lane bounded partly by fields and scattered low density residential development.
7. The appeal site is part of a housing allocation in the recently adopted LPSS (Policy A31). It forms the eastern fringes of the allocation and the majority of the site's eastern boundary almost entirely presents to the back edge of Harpers Road. Further south, and outside of the appeal site, the allocation follows the western boundaries of curtilages and land belonging to scattered, low density frontage development. In effect, and where the eastern edges of the appeal site abut Harpers Road aside, the remainder of the allocation would be noticeably further west. To the eastern side of Harpers Road the character of the area is distinctly rural, extending into wide and expansive fields with some scattered agrarian development.
8. The appeal scheme seeks outline planning permission albeit with matters of scale, layout and access fixed. As is the appeal site, the proposed development would be split into two distinct parts north and south of the stream. The northern section would be arranged in something of an informal parkland layout and low density. The dwellings contained therein would face a shared curved access road running from Harpers Road with an arrangement of largely detached units with gardens extending and meeting to the rear. South of the stream would be a higher density, more formal and somewhat suburban style layout with a number of tightly packed semi detached units, two banks of covered parking spaces and a building containing two flats.
9. Whilst I accept that the design or outward appearance of the proposed development is not for consideration at this stage, the structured, linear, high density and suburban layout of the southern section gives me cause for concern. Facing the back edge of Harpers Road, it would appear somewhat anomalous against predominantly low density rural style housing and jar with the equally narrow rural lane that runs out from the main built up parts of the settlement. The site is wooded and existing and future planting would provide some screening but the scale and amount of new development would still be noticeable. In any event, I would not be persuaded by an argument in favour of an unacceptable form of new development if it could be hidden.
10. As I have alluded to above, the appeal site is part of a wider housing allocation and thus the principle of housing development in the general area is acceptable but this does not mean at the cost of the defining characteristics of this semi rural part of the settlement edge. New housing across the remainder of the allocation will, as the appellant has pointed out, change the character of the area to one more built up. However, and as I have said, the appeal site is

where most of the eastern edge of the allocation abuts the edge of the settlement and Harpers Road, the remainder of the allocation would be set noticeably back and behind the lower density rural style housing development I have mentioned. The appeal site is therefore more sensitive in character and visual terms and whilst I do not object particularly to how the northern section of the appeal site has been treated, I feel that the southern section, for the above reasons, would be harmful to the character and appearance of the area.

11. The harm I have found would result in conflict with saved Policy G5 of the 2003 Local Plan and Policy D1 of the LPSS. Amongst other things and along with section 12 of the Framework¹, these policies seek to ensure that new development is of a high quality and contextually appropriate design and appearance that reflects distinctive local character.

The TBHSPA, Developer Contributions and Infrastructure

12. The Council considers that the proposed development has the potential, in combination with other projects, to affect the integrity of the TBHSPA as a result of increased pressure for its recreational use that would arise out of the increase in the local population. In this case the net addition of 24 dwellings. In order to mitigate this impact, the proposed development would be required to contribute towards Suitable Alternative Natural Green Space (SANG). Having regard to the evidence in respect of this main issue, I have no reason to disagree.
13. In accordance with the requirements of the development plan and the impacts of the appeal scheme on infrastructure, there are a number of other areas where the Council consider contributions should be made. As well as the above, these include affordable housing, highways improvements and school space provision. I have seen the Council's evidence in respect of the justification for the contributions to which, on the whole, the appellant does not object. The level of affordable housing contributions has regard to the scale of the proposed development and the requirements of the relevant policies of the development plan. In terms of the education provision, there is detailed evidence pertaining to the nature and scale of the proposed development set against existing capacity. Noting the calculations provided by Surrey County Council in these respects it seems to me the level of contribution sought is both reasonable and proportionate.
14. There appears to be two key parts to the contributions sought in respect of improvements to highways infrastructure and they are commuted sums. The first is a £25,000 contribution for what is described as a road safety improvement scheme in the vicinity of the site. Looking into the evidence in support of this, there appears to be an existing safety issue at the junction of Harpers Road and Ash Green Road. A safety scheme seems to have been designed and costed. There appears clear indication this is what this contribution would be directed at and given the proximity of the junction to the appeal site, it is likely that the additional traffic generated by it would use the junction. I am content therefore, taking the above into account, that this contribution is justified.
15. The second part to the highways improvements relates to the provision of a new road bridge. Referred to in the evidence as the Ash Road Bridge, the

¹ The National Planning Policy Framework 2019

project is a multi million pound highways improvement scheme intended to alleviate the additional traffic load that will arise out of the Policy A31 housing allocation, reduce delays through the closure of a level crossing and reduce rat running along other local minor routes by keeping traffic on the A323. The justification for the need for the bridge was investigated during the examination for the LPSS. The Inspector found that the provision of the bridge was necessary for the allocation to proceed having regard to the evidence presented. Noting that the appeal site is part of the Policy A31 allocation and falls along one of the rat running routes referred to during the examination, I agree that it would be reasonable for the scheme to make some form of contribution towards the provision of the road bridge.

16. The Council advance that the scheme should provide £10,000 per net additional dwelling, referring to the same requirement that has been placed on other sites within the A31 allocation. This would total £230,000. Whilst fair to all developers on its face, I am concerned that I have seen no evidenced formula for the requirement, giving me concerns that it is an arbitrary amount. Set against this is the scale of the appeal scheme which seems to be on one of the smaller A31 sites and thus the affordability of the contribution needs to be considered. I am also mindful of the appellant's evidence pertaining to the likely use of the bridge from the scheme and the totality of £10,000 per dwelling contributions when extrapolated to the 1750 dwellings that form the allocation which, it would appear, would yield an amount over that stated to come from developer contributions. Taking all of this into account, I have concerns that the level of contribution sought may be too high and requires further investigation as to how reasonable and proportionate it might be.
17. The appellant has provided a planning obligation in the shape of a Unilateral Undertaking (UU) on which the Council has passed comment. Some changes have been made to the UU and the Council have subsequently commented thereon. The UU seeks to provide SANG, affordable housing and highways improvements in regard to both of the areas that I have discussed. The Council's concerns relate to detail in the UU and whilst some are related to wording, order and layout preferences which can be addressed, there appear to be some matters which, cumulatively, undermine its validity and enforceability to the point where I would not be content taking it into account as a suitable obligation under the section of the Act² it is made.
18. Putting my concerns over the UU and the level of contribution sought for the Ash Road Bridge together, it would be the case that what I have before me is insufficient to give me enough comfort that the impacts of the appeal scheme on infrastructure would be acceptable or that there would not be harm to the integrity of the TBHSPA. Thus, there would be conflict with saved Policy NE4 of the 2003 Local Plan, Policy NRM6 of the South East Plan 2009 and Policies ID1 and P5 of the LPSS. Amongst other things, these policies seek to ensure that appropriate infrastructure required to support new development is delivered and that new development should be required to put adequate measures in place to avoid or mitigate harm towards the TBHSPA and more generally protect the integrity of designated areas. There would also be conflict with section 15 of the Framework which sets out, amongst other things, protection for and the appropriate mitigation against harm to areas of special protection, conservation and those of special scientific interest.

² Section 106 of the Town and Country Planning Act 1990 (as amended)

Other Matters

19. I have not conducted a detailed appropriate assessment as required under the Habitat Regulations or requested the appellant submit a revised completed planning obligation taking into account the Council's most recent comments as even in the event I did not find harm arising out of the latter main issues, it would not reduce that which I have found (and the subsequent conflict there would be with the development plan) in respect of the first.
20. The Council, in their reasons for the refusal of planning permission, refer to the wider and aforementioned housing allocation and how the appeal scheme would represent piecemeal development of the allocation and not permit clear linkages between it and the remainder of the allocated land south of Ash and Tongham. In so doing, the Council feel that the appeal scheme would not make the best use of the allocated land or comprise sufficiently comprehensive development.
21. I disagree. The layout appears to show that footpath and possible cycle linkages to an adjacent site and onto the built up parts of the settlement would be possible and the nature of the roads within the site would be such that I can see further possibilities an adjacent site could be linked by them. I am also mindful of the fact that the appeal site is contextually small and contained when compared to other segments of the allocation which, it also has to be borne in mind, are as likely to come forward separately as they would together. With these factors in mind, it seems eminently possible to ensure that the appeal site would not be isolated from the rest of the allocation albeit equally, given its size and degree of containment, it does not strike me as wholly unacceptable if it were not should all other issues be found to be acceptable.
22. The appellant's evidence alludes to the Council not being able to demonstrate the supply of housing sites as required by the Framework. The Council's statement, supplied after the adoption of the LPSS in April of 2019, sets out that they are now able to do so. I have not seen any compelling evidence to the contrary. In any case, and if the Council were in an undersupply situation, I would not be taken to the so called tilted balance of paragraph 11(d)(ii) since there would be, in the case of the appeal scheme, clear reasons for refusing the development given that there are other policies of the Framework that protect areas of particular importance, habitats sites in this particular case, as per paragraph 11(d)(i).
23. The above matters aside, the lack of a housing supply is not a determinative matter in the case of the appeal scheme primarily since the appeal site is part of an extant allocation for new housing and the principle of housing development on the site would be acceptable regardless of the overall supply situation.
24. I note the landscape impact assessment work that the appellant undertook for the purposes of the planning application as well as the Council's conclusions thereon. Whilst I agree that the landscape impact would not necessarily be the source of demonstrable harm given largely the extant allocation, this would not conclude the extent of any assessment of harm to the character and appearance of the area. The source of the harm in the case of the appeal scheme is concerned with how it would, or wouldn't in this particular case, sit well with the established character and appearance of the area in terms of built

form and the general rural arrangement of the settlement's fringe in and around the appeal site.

25. I note the appeal site is in a good location with regards to the ready access future residents would have to a range of services on which they would rely for day to day living, there would be no harm to the living conditions of existing or future occupiers and appropriate drainage could be provided. Be this as it may, this would all represent a lack of harm which would be neutral in any balance. It could not be used to weigh against harm.

Conclusion

26. I have had regard to other matters that have been raised in the evidence which includes the views of local residents but it is for the reasons I have set out above that the appeal is dismissed.

John Morrison

INSPECTOR